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MONTANA CONSTITUTIONAL CONVENTION

1971-1972

REPORT OF COMMITTEE ON STYLE, DRAFTING, TRANSITION AND SUBMISSION

ON

GENERAL GOVERNMENT

No. ~~XIV~~

Date Reported: March 20, 1972

John M. Schultz, Chairman

William S. Buckner, Vice Chairman

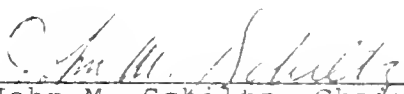
TO: Montana Constitutional Convention
SUBJECT: GENERAL GOVERNMENT

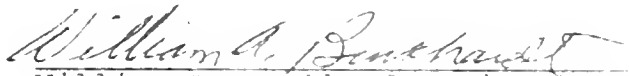
Ladies and Gentlemen:

The Committee on Style, Drafting, Transition and Submission transmits revisions of the above Article for consideration of the Convention.

Immediately following this letter you will find the above Article as revised by the Committee. Following that is the Article indicating (by underlining) words we have added and (by crossing out) words we have deleted from the Article as approved. Finally, there is an explanation of the changes we have made.

Sincerely,


John M. Schiltz, Chairman of the
Committee on Style, Drafting,
Transition and Submission


William A. Burkhardt, Vice Chairman
of the Committee on Style, Drafting,
Transition and Submission

1 BE IT PROPOSED BY THE GENERAL GOVERNMENT AND CONSTITU-
2 TIONAL AMENDMENT COMMITTEE:

3 That there be a new Article on General Government to
4 read as follows:

5
6 ARTICLE

7 GENERAL GOVERNMENT

8 Section 1. SEPARATION OF POWERS. The power of the
9 government of this state is divided among three distinct
10 branches--legislative, executive, and judicial. No person
11 or persons charged with the exercise of power properly
12 belonging to one branch shall exercise any power properly
13 belonging to either of the others, except as in this
14 constitution expressly directed or permitted.

15 Section 2. CONTINUITY OF GOVERNMENT. The seat of
16 government shall be in Helena, except during periods of
17 emergency resulting from disasters or enemy attack. The
18 legislature may enact laws to insure the continuity of
19 government during a period of emergency without regard for
20 other provisions of the constitution. They shall be
21 effective only during the period of emergency that affects
22 a particular office or governmental operation.

23 Section 3. OATH OF OFFICE. Members of the legislature
24 and all executive, ministerial and judicial officers, shall
25 take and subscribe the following oath or affirmation, before
26 they enter upon the duties of their offices: "I do
27 solemnly swear (or affirm) that I will support, protect
28 and defend the constitution of the United States, and the
29 constitution of the state of Montana, and that I will
30 discharge the duties of my office with fidelity (so help

1 me God)." No other oath, declaration, or test shall be
2 required as a qualification for any office or public
3 trust.

4 Section 4. INITIATIVE. (1) The people may enact laws
5 by initiative on all matters except appropriations of
6 money and local or special laws prohibited by this con-
7 stitution.

8 (2) Each initiative petition must contain the full
9 text of the proposal. Each shall be signed by at least
10 five percent of the qualified electors in each of at
11 least one-third of the legislative representative districts
12 and the total number of signers must be at least five
13 percent of the total qualified electors of the state. A
14 petition shall be filed with the secretary of state at
15 least three months prior to the election at which it will
16 be voted upon.

17 (3) The sufficiency of the initiative petition shall
18 not be questioned after the election is held.

19 Section 5. REFERENDUM. (1) The people may approve
20 or reject by referendum any act of the legislature except
21 an appropriation of money. A referendum shall be held
22 either upon order by the legislature or upon petition signed
23 by at least five percent of the qualified electors in each
24 of at least one-third of the legislative representative
25 districts. The total number of signers must be at least
26 five percent of the qualified electors of the state. A
27 referendum petition shall be filed with the secretary of
28 state no later than six months after adjournment of the
29 legislature which passed the act.

30 (2) An act referred to the people is in effect until

1 suspended by petition signed by at least 15 percent of
2 the qualified electors in a majority of the legislative
3 representative districts. If so suspended the act shall
4 become operative only after it is approved at an election,
5 the result of which has been determined and declared as
6 provided by law.

7 Section 6. ELECTIONS. The people shall vote on
8 initiative and referendum at the general election unless
9 the legislature orders a special election.

10 Section 7. NUMBER OF ELECTORS. The number of
11 qualified electors required in each legislative repre-
12 sentative district and in the state shall be determined
13 by the number of votes cast for governor in the preceding
14 general election.

15 Section 8. PROHIBITION. The provisions of this
16 Article do not apply to CONSTITUTIONAL REVISION, Article
17 XIII.

18 Section 9. RECALL. The legislature may provide for
19 the recall of all elected officials of the state and local
20 government units.

21 Section 10. GAMBLING. All forms of gambling,
22 lotteries, and gift enterprises are prohibited unless
23 authorized by acts of the legislature or by the people
24 through initiative or referendum.

25 Section 10. GAMBLING. All forms of gambling,
26 lotteries, and gift enterprises are prohibited.

27 Section 11. BOUNDARIES. The sovereignty and juris-
28 diction of the State of Montana shall prevail within the area
29 encompassed by the following boundaries:

30 Beginning at the point of intersection of the 104th

1 meridian of west longitude and the 45th parallel of north
2 latitude, thence clockwise west on said parallel to its
3 intersection with the 111th meridian; south on said meridian
4 to the crest of the Rocky Mountains; northwestward on
5 said crest (the continental divide) to the summit of Lost
6 Trail Pass intersecting there with the southeast end and
7 crest of the Bitter Root Mountains; thence northwestward on
8 the crest of the Bitter Root Mountains and Range to the
9 116th meridian; north on said meridian to the 49th parallel;
10 east on said parallel to the 104th meridian; and south on
11 said meridian to the place of beginning.

1 BE IT PROPOSED BY THE GENERAL GOVERNMENT AND CONSTITUTIONAL
2 AMENDMENT COMMITTEE:

3 That there be a new Article on General Government to
4 read as follows:

5
6 ARTICLE _____

7 GENERAL GOVERNMENT

8 Section 1. SEPARATION OF POWERS. The powers of the
9 government of this state ~~are~~ is divided into among three dis-
10 tinct branches:--~~The~~ legislative, executive, and judicial;.
11 ~~and No~~ No person or ~~collection-of~~ persons charged with the exer-
12 cise of powers properly belonging to one ~~of-these~~ branches
13 shall exercise any powers properly belonging to either of the
14 others, except as in this constitution expressly directed or
15 permitted.

16 Section 2. CONTINUITY OF GOVERNMENT. The seat of govern-
17 ment shall be in Helena, except during periods of emergency
18 resulting from disasters or enemy attack. The ~~legislative~~
19 ~~assembly legislature~~ legislature may enact laws to insure the continuity of
20 governmental-operations during a period of emergency:--~~Such-laws~~
21 ~~may-deviate-from~~ without regard for other provisions of the
22 Montana constitution. ~~conflicting-there-with-but~~ They shall be
23 effective only during the period of emergency that affects a
24 particular office or governmental operation.

25 Section 3. OATH OF OFFICE. Members of the ~~legislative~~
26 ~~assembly legislature~~ legislature and all ~~officers,~~ executive, ministerial
27 ~~or and~~ judicial officers, shall, ~~before-they-enter-upon-the~~
28 ~~duties-of-their-respective-offices,~~ take and subscribe the follow-
29 ing oath or affirmation, before they enter upon the duties of
30 their offices ~~to-wit:~~ "I do solemnly swear (or

1 affirm) that I will support, protect and defend the
2 constitution of the United States, and the constitution
3 of the state of Montana, and that I will discharge the
4 duties of my office with fidelity (so help me God)."

5 And ~~n~~No other oath, declaration, or test shall be required
6 as a qualification for any office or public trust.

7 Section 4. INITIATIVE. (1) The people may enact laws
8 by initiative on all matters except appropriations of
9 money and local or special laws prohibited by this con-
10 stitution.

11 (2) Each initiative petition must contain the full text
12 of the proposed measure. ~~Initiative-petitions~~ Each must shall
13 be signed by at least five percent ~~or-more~~ of the qualified
14 electors ~~legal-voters~~ in each of at least one-third ~~or-more~~
15 of the legislative representative districts and the total
16 number of signers must be at least five percent ~~or-more~~ of
17 the total ~~legal-voters~~ qualified electors of the state. ~~Each~~
18 ~~petition-must-contain-the-full-text-of-the-proposed-measure-~~
19 ~~A~~ Ppetitions-~~must~~ shall be filed with the Secretary of State
20 at least three months ~~or-more~~ prior to the election at which
21 ~~they~~ it will be voted upon.

22 (3) The sufficiency of the initiative petition shall
23 not be questioned ~~once~~ after the election is held.

24 Section 5. REFERENDUM. (1) The people may approve
25 or reject by referendum any acts of the legislature ~~by refer-~~
26 ~~endum,~~ except an appropriations of money. A referendum may
27 shall be ~~ordered~~ held either upon order by the ~~legislative~~
28 ~~assembly,~~ legislature or upon petition signed by at least five
29 percent ~~or-more~~ of the ~~legal-voters~~ qualified electors in each
30 of at least one-third ~~or-more~~ of the legislative representative

1 districts. ~~and~~ The total number of signers must be at least
2 five percent or more of the total legal voters qualified
3 electors of the state. A Referendum petitions must shall
4 be filed with the Secretary of State no later than six
5 months after adjournment of the legislative assembly legislature
6 which passed the bill act.

7 (2) An Acts of the legislature referred to the people
8 are is in full force and effect unless until suspended by
9 petitions signed by at least 15 percent of the legal voters
10 qualified electors of in a majority of the whole number of the
11 legislative representative districts of the state, in which
12 case If so suspended the law act shall become inoperative
13 until such time as only after it shall be passed upon is approved
14 at an election, and the result of which has been determined and
15 declared as provided by law.

16 ~~Section 6:--ELECTIONS:--All measures referred to the~~
17 ~~people shall be voted upon at the regular biennial election~~
18 ~~unless a special election is ordered by the legislative assembly.~~

19 Section 6. ELECTIONS. The people shall vote on initiative
20 and referendum at the general election unless the legislature
21 orders a special election.

22 ~~Section 7:--LEGAL VOTERS:--The number of legal voters~~
23 ~~for each legislative representative district and for the~~
24 ~~state is determined by the votes cast for the office of~~
25 ~~Governor in the regular election immediately preceding filing~~
26 ~~of petitions for initiative or referendum measures.~~

27 Section 7. NUMBER OF ELECTORS. The number of qualified
28 electors required in each legislative representative district
29 and in the state shall be determined by the number of votes
30 cast for governor in the preceding general election.

1 Section 9 8. RESTRICTION- PROHIBITION. The provisions
2 of This Article is-not-applicable do not apply to
3 CONSTITUTIONAL REVISION, as-covered-in Article XIII of-this
4 constitution.

5 Section ~~10~~ 9. RECALL. Laws-may-be-enacted-to The
6 legislature may provide for the recall of all elected officials
7 of the state and its-political-subdivisions. local government
8 units.

9 Section ~~11~~ 10. GAMBLING. All forms of gambling, lotteries,
10 and gift enterprises are prohibited unless authorized by
11 acts of the legislature or by the people through initiative
12 or referendum.

13 Section ~~11~~ 10. GAMBLING. All forms of gambling, lotteries,
14 and gift enterprises are prohibited.

15 Section ~~12~~ 11. BOUNDARIES. The sovereignty and juris-
16 diction of the State of Montana shall prevail within the area
17 encompassed by the following boundaries:

18 Beginning at the point of intersection of the 104th
19 meridian of west longitude and the 45th parallel of north
20 latitude, thence clockwise west on said parallel to its
21 intersection with the 111th meridian; south on said meridian
22 to the crest of the Rocky Mountains; northwestward on
23 said crest (the continental divide) to the summit of Lost
24 Trail Pass intersecting there with the southeast end and
25 crest of the Bitter Root Mountains; thence northwestward on
26 the crest of the Bitter Root Mountains and Range to 116th
27 meridian; north on said meridian to the 49th parallel;
28 east on said parallel to the 104th meridian; and south on
29 said meridian to the place of beginning.
30

1 Report No. XII - General Government

2 COMMENTS ON STYLE, FORM AND GRAMMAR

3 Section 1. The changes in language make plain that
4 the power of government is one whole which is divided into
5 three parts.

6 Section 2. Changes in language clarify and shorten
7 without affecting substance.

8 Section 3. Reordering promotes flow without altering
9 substance.

10 Sections 4 and 5. Reordering and language changes do
11 not alter substance.

12 Section 6. Changes make clear that both initiative and
13 referendum are covered.

14 Section 7. Changes clarify.

15 Section 9 8. Changes emphasize the prohibition.

16 Section ~~10~~ 9. The phrase "local government units",
17 adopted in section 1, Article XI, LOCAL GOVERNMENT, was substituted
18 for "its political subdivisions."

19 Section ~~11~~ 10. The adoption schedule will provide for
20 the deletion of whichever form of the section is not approved
21 by the voters.

